



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

[NRC-2012-0211]

RIN 3150-AJ19

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correcting amendment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) published a final rule in the *Federal Register* on July 1, 2013 (78 FR 39461), amending the licensing, inspection, and annual fees charged to its applicants and licensees. The final rule inadvertently removed from a fee category description the word “one,” which is necessary to indicate the number of government-to-government consents included in this fee category. This document corrects the error.

DATES: *Effective Date:* This correction is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1481, e-mail: Arlette.Howard@nrc.gov.

SUPPLEMENTARY INFORMATION: The 2013 final fee rule was published in the *Federal Register* on July 1, 2013 (78 FR 39461), with an effective date of August 30, 2013. The final rule inadvertently removed the word “one” from the description for fee category 15.G. in § 170.31 of Title 10 of the *Code of Federal Regulations*. The word “one” is necessary to indicate the number of government-to-government consents included in this fee category. This document corrects the error.

Rulemaking Procedure

Because this amendment corrects an error to the NRC’s regulations, the Commission finds that the notice and comment provisions of the Administrative Procedure Act are unnecessary and is exercising its authority under 5 U.S.C. 553(b)(3)(B) to publish this amendment as a final rule. This amendment does not require action by any person or entity regulated by the NRC. Also, the final rule does not change the substantive responsibilities of any person or entity regulated by the NRC.

List of Subjects in 10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, 10 CFR part 170 is corrected by making the following correcting amendment.

**PART 170 -- FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND
OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS
AMENDED**

1. The authority citation for part 170 continues to read as follows:

Authority: Independent Offices Appropriations Act sec. 501 (31 U.S.C. 9701); Atomic Energy Act sec. 161(w) (42 U.S.C. 2201(w)); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Chief Financial Officers Act sec. 205 (31 U.S.C. 901, 902); Government Paperwork Elimination Act sec. 1704, (44 U.S.C. 3504 note); Energy Policy Act secs. 623, Energy Policy Act of 2005 sec. 651(e), Pub. L. 109-58, 119 Stat.783 (42 U.S.C. 2201(w), 2014, 2021, 2021b, 2111).

2. In § 170.31, amend the table by revising entry 15.G. to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

<u>Category of materials licenses and type of fees</u> ¹	<u>Fee</u> ^{2, 3}
* * * * *	
15. * * *	
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see 15.I.	

Application—new license, or amendment; or license exemption request	8,700

¹*Types of fees* - Separate charges, as shown in the schedule, will be assessed for preapplication consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, preapplication consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

² Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

³ Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

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Dated at Rockville, Maryland, this 3rd day of September, 2013.

For the Nuclear Regulatory Commission.

Cindy Bladey,
Chief, Rules, Announcements, and Directives Branch,
Division of Administrative Services,
Office of Administration.

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